

STATE OF MICHIGAN
COURT OF APPEALS

In re MOSLEY/JONES, Minors.

UNPUBLISHED
November 26, 2019

No. 348353
Wayne Circuit Court
Family Division
LC No. 15-519542-NA

Before: JANSEN, P.J., and BOONSTRA and LETICA, JJ.

PER CURIAM.

Respondent-father appeals as of right the order terminating his parental rights to his minor children, JM and JJ, under MCL 712A.19b(3)(c)(i) (conditions leading to the adjudication continue to exist), MCL 712A.19b(3)(g) (failure to provide proper care and custody), and MCL 712A.19b(3)(j) (reasonable likelihood that the children will be harmed if returned to parent). We affirm.

I. STATUTORY GROUNDS

Respondent-father first argues that the trial court erroneously found clear and convincing evidence existed to terminate his parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). We disagree.

This Court reviews a trial court’s finding that grounds for termination have been established under the clearly erroneous standard. MCR 3.977(K); *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). A finding is clearly erroneous when, although there is evidence to support it, this Court is left with the definite and firm conviction that a mistake has been made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). A trial court’s decision must be more than maybe or probably wrong in order for this Court to determine that it is clearly erroneous. *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). This Court gives deference to the special opportunity of the trial court to judge the credibility of the witnesses who appear and testify before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

“To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established.” *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). “Only one statutory ground need be established

by clear and convincing evidence to terminate a respondent's parental rights, even if the court erroneously found sufficient evidence under other statutory grounds." *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011).

The trial court first found that termination of respondent-father's parental rights was appropriate under MCL 712A.19b(3)(c)(i). Termination is appropriate under MCL 712A.19b(3)(c)(i) where clear and convincing evidence establishes:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

* * *

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that lead to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

JM was brought under the trial court's jurisdiction in April 2017 because respondent-father did not have suitable housing, and indicated that he was unable to provide for JM at that time. JJ was brought under the trial court's jurisdiction in November 2017 because respondent-father still did not have suitable housing, and had not completed the case service plan previously established in JM's case. At the time of termination, JM had been removed from respondent-father's care for 20 months, and JJ had been removed from respondent-father's care for 13 months. In that time, respondent-father had not obtained suitable housing: he continued to live with his grandmother who was not willing to let JM and JJ live in her home because of the size of the home and other family obligations. Although respondent-father's sister indicated that she would be willing to allow respondent-father, JM, and JJ to live with her, Tipton testified that the home of respondent-father's sister had been evaluated, but was not suitable.

Additionally, respondent-father continued to struggle with providing for JM and JJ. Tipton testified that respondent-father did not consistently attend parenting time visitation, and when he did attend, he did not bring supplies for JM and JJ as required. Although respondent-father maintained employment throughout the pendency of this case, respondent-father never established that he was capable of caring for JM and JJ.

Based on the foregoing, we conclude that the trial court did not err in finding that clear and convincing evidence established that conditions leading to the adjudication continued to exist, and therefore statutory grounds existed to terminate respondent-father's parental rights under MCL 712A.19b(3)(c)(i).

Because the trial court properly found that statutory grounds existed to terminate respondent's parental rights under MCL 712A.19b(3)(i), this Court need not address

respondent's additional challenges to termination of his parental rights under MCL 712A.19b(3)(g) and (j). *In re Ellis*, 294 Mich App at 33.

II. BEST INTERESTS

Respondent-father also argues that it was not in the best interests of JM and JJ to terminate his parental rights. Again, we disagree.

A trial court's finding that termination of a respondent's parental rights is in the best interests of the minor children is reviewed by this Court for clear error. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012).

"Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interest before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App at 35. See also MCL 712A.19b(3)(5). The inquiry should focus on the child, not the parent. *In re Moss*, 301 Mich App at 76. "[W]hether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence." *Id.* at 87. "The trial court should weigh all the evidence available to determine the children's best interests." *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). Factors appropriately considered by the trial court include "the child's bond to the parent, the parent's parenting ability, [and] the child's need for permanency, stability, and finality...." *In re Olive/Metts*, 297 Mich App at 41-42 (citation omitted).

In determining whether the termination of respondent-father's parental rights was in the best interests of JM and JJ, the trial court found that respondent-father continued to be "absent." Even 20 months after JM had been out of his care, respondent-father failed to obtain suitable housing for his children. The trial court went on to find that JM and JJ needed:

regular, consistent, stable homes. They're of an age where they can easily be adopted. The preference and [sic] was for the past year and a half to get them back with their parents, but after more than a year and a half of trying, we're in no position to be – to be able to make that happened [sic]. In all likelihood based on the parents' conduct and capacity it's not likely to happen anytime soon. And what we want to avoid for [JM] and [JJ], what the parents are going through now. We don't want them to have that type of instability. It is in both of their best interests to terminate all parental rights.

We conclude that these findings are supported by a preponderance of the evidence. Although JM and JJ knew that respondent-father was their dad, there was not a strong bond because respondent-father was never consistent with his visitation. Although respondent-father underwent a psychological evaluation, attended individual therapy, and participated in an infant mental health program, he never obtained suitable housing for JM and JJ. Moreover, although he was employed, he never established that he was capable of providing for his children. JM and JJ are entitled to stability, consistency, and finality, which based on the foregoing, respondent-father is incapable of providing. In comparison, at least one foster family, in addition to relatives of JM's and JJ's mother, is interested in adopting the girls. Thus, the trial court did not clearly

err in finding that termination of respondent-father's parental rights was in the best interest of the minor children.

Affirmed.

/s/ Kathleen Jansen
/s/ Mark T. Boonstra
/s/ Anica Letica